IN THE HIGH COURT OF HIMACHAL PRADESH AT SHIMLA

CMPMO No.63 of 2006.

Date of Decision: 2nd August, 2006.

Centurion Bank of Punjab & another. Petitioners.

Versus

Salig Ram Sharma and another. Respondents.

Coram

The Hon'ble Mr. Justice V.K.Gupta, C.J.

Whether approved for reporting[1]?

For the petitioners:Mr. Sandeep Suri, Advocate.

For the respondents:Mr. Dalip K. Sharma, Advocate.

V.K.Gupta, C.J. (Oral)

In this petition order dated 4th November, 2005 passed by the learned Civil Judge (Junior Division), Solan in CMA No.288/6 of 2005 has been challenged by the petitioners. Vide this order, the learned Court below had dismissed the petitioners' application filed under Order 7 Rule 11 of the Code of Civil Procedure and Section 8 of the Arbitration and Conciliation Act, 1996.

As this petition came up for consideration today, the learned counsel for the petitioners as well as learned counsel appearing for both the

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[1] Whether the reporters of Local Papers are allowed to see the Judgment?

respondents have submitted before me that without going into any controversy forming the subject matter of the suit or the aforesaid application filed under Order 7 Rule 11 of the Code of Civil Procedure and Section 8 of the 1996 Act from out of which the aforesaid impugned order has arisen and also without going into any controversy relating to or arising out of the present petition, I should appoint an independent Arbitrator to adjudicate upon the disputes between the parties. The learned counsel for the respondents submits that the respondents actually admit about the existence of the arbitration agreement and, therefore, the disputes being arbitrable they are required to be referred to arbitration but only on the condition that an independent Arbitrator is appointed by me.

Mr. Sandeep Suri, learned counsel appearing for the petitioners specifically and explicitly agrees to this course of action being adopted and submits that the petitioners have no objection to an independent Arbitrator being appointed by me and the disputes being referred to him for his arbitration.

Based upon the aforesaid agreement between the parties, the parties further submit that Mr. Ajay

Sharma, an Advocate of this Court be appointed as the Single Member Arbitral Tribunal.

Based upon the aforesaid overall agreement between the parties, Civil Suit Salig Ram Sharma and another vs. Centurion Bank and another pending in the Court of learned Civil Judge (Junior Division), Solan as well as this petition both are disposed of. The petitioners' application filed under Order 7 Rule 11 of the Code of Civil Procedure and Section 8 of 1996 Act is allowed. To that extent the impugned order dated 4th November, 2005 is set aside. Instead of, however, the Arbitrator being appointed as per the stipulation contained in the Arbitration Agreement, I hereby appoint Shri Ajay Sharma, Advocate of this Court as the Single Member Arbitral Tribunal. The parties are at liberty to file claims or counter claims before the Arbitrator who shall enter upon the reference without any delay and pass the arbitral award as soon as possible. The venue of the arbitration proceedings shall be either at Shimla or at Solan depending upon the convenience of the parties as well as the learned Arbitrator. The Arbitrator's fee is fixed at Rs.30,000/- which shall be paid to him in equal shares by both the parties.

The respondents are at liberty to apply to the learned Arbitrator for grant of any interim relief. The learned Arbitrator may entertain such n application and pass appropriate orders thereupon on its merits and in accordance with law.

As agreed to by the learned counsel for the parties as well as by Mr. Ajay Sharma, learned Arbitrator, who is present in the Court today the first sitting of the arbitration shall be held in the office of the Arbitrator at Shimla at 11.00 a.m. on 20th August, 2006.

The petition is disposed of.

CMP No.125 of 2006.

In view of the disposal of the main petition, this application is disposed of. Interim order passed on 22nd March, 2006 shall stand vacated.

2nd August, 2006. (V.K. Gupta), C.J.
(tr)